

quiet zone that were raised by the railroad(s) and State agency;

(v) Contain detailed information as to which SSMs and ASMs are proposed to be implemented at each public or private highway-rail grade crossing within the proposed quiet zone;

(vi) Contain a commitment to implement the proposed safety measures within the proposed quiet zone; and

(vii) Demonstrate through data and analysis that the proposed implementation of these measures will cause a reduction in the Quiet Zone Risk Index to, or below, either the Risk Index With Horns or the Nationwide Significant Risk Threshold.

(2) If the proposed quiet zone contains newly established public or private highway-rail grade crossings, the public authority's application for approval must also include five-year projected vehicle and rail traffic counts for each newly established grade crossing;

(3) *60-day comment period.* (i) The public authority application for FRA approval of the proposed quiet zone shall be provided, by certified mail, return receipt requested, to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

(ii) Except as provided in paragraph (b)(3)(iii) of this section, any party that receives a copy of the public authority application may submit comments on the public authority application to the Associate Administrator during the 60-day period after the date on which the public authority application was mailed.

(iii) If the public authority application for FRA approval contains written statements from each railroad operating over the public highway-rail grade crossings within the quiet zone, the highway or traffic control authority or law enforcement authority having jurisdiction over vehicular traffic

at grade crossings within the quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety stating that the railroad, vehicular traffic authority and State agencies have waived their rights to provide comments on the public authority application, the 60-day comment period under paragraph (b)(3)(ii) of this section shall be waived.

(4)(i) After reviewing any comments submitted under paragraph (b)(3)(ii) of this section, the Associate Administrator will approve the quiet zone if, in the Associate Administrator's judgment, the public authority is in compliance with paragraphs (b)(1) and (b)(2) of this section and has satisfactorily demonstrated that the SSMs and ASMs proposed by the public authority result in a Quiet Zone Risk Index that is either:

(A) At or below the Risk Index With Horns or

(B) At or below the Nationwide Significant Risk Threshold.

(ii) The Associate Administrator may include in any decision of approval such conditions as may be necessary to ensure that the proposed safety improvements are effective. If the Associate Administrator does not approve the quiet zone, the Associate Administrator will describe, in the decision, the basis upon which the decision was made. Decisions issued by the Associate Administrator on quiet zone applications shall be provided to all parties listed in paragraph (b)(3)(i) of this section and may be reviewed as provided in §§ 222.57(b) and (d) of this part.

(c) Appendix C of this part contains guidance on how to create a quiet zone.

#### **§ 222.41 How does this rule affect Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones?**

(a) *Pre-Rule Quiet Zones that will be established by automatic approval.* (1) A Pre-Rule Quiet Zone may be established by automatic approval and remain in effect, subject to § 222.51, if the Pre-Rule Quiet Zone is in compliance with §§ 222.35 (minimum requirements for quiet zones) and 222.43 of this part (notice and information requirements) and the Pre-Rule Quiet Zone:

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(i) Has at every public highway-rail grade crossing within the quiet zone one or more SSMS identified in appendix A of this part;

(ii) The Quiet Zone Risk Index as last published by FRA in the FEDERAL REGISTER is at, or below, the Nationwide Significant Risk Threshold; or

(iii) The Quiet Zone Risk Index as last published by FRA in the FEDERAL REGISTER is above the Nationwide Significant Risk Threshold but less than twice the Nationwide Significant Risk Threshold and there have been no relevant collisions at any public grade crossing within the quiet zone for the five years preceding April 27, 2005 or

(iv) The Quiet Zone Risk Index as last published by FRA in the FEDERAL REGISTER is at, or below, the Risk Index With Horns.

(2) The public authority shall provide Notice of Quiet Zone Establishment, in accordance with § 222.43 of this part, no later than December 24, 2005.

(b) *Pre-Rule Partial Quiet Zones that will be established by automatic approval.*

(1) A Pre-Rule Partial Quiet Zone may be established by automatic approval and remain in effect, subject to § 222.51 of this part, if the Pre-Rule Partial Quiet Zone is in compliance with §§ 222.35 (minimum requirements for quiet zones) and 222.43 (notice and information requirements) of this part and the Pre-Rule Partial Quiet Zone:

(i) Has at every public highway-rail grade crossing within the quiet zone one or more SSMS identified in appendix A of this part;

(ii) The Quiet Zone Risk Index as last published by FRA in the FEDERAL REGISTER is at, or below, the Nationwide Significant Risk Threshold; or

(iii) The Quiet Zone Risk Index as last published by FRA in the FEDERAL REGISTER is above the Nationwide Significant Risk Threshold but less than twice the Nationwide Significant Risk Threshold and there have been no relevant collisions at any public grade crossing within the quiet zone for the five years preceding April 27, 2005. With respect to Pre-Rule Partial Quiet Zones, collisions that occurred during the time period within which the locomotive horn was routinely sounded shall not be considered “relevant collisions”; or

(iv) The Quiet Zone Risk Index as last published by FRA in the FEDERAL REGISTER is at, or below, the Risk Index With Horns.

(2) The public authority shall provide Notice of Quiet Zone Establishment, in accordance with § 222.43 of this part, no later than December 24, 2005.

(c) *Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones that will not be established by automatic approval.* (1) If a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone will not be established by automatic approval under paragraph (a) or (b) of this section, existing restrictions may, at the public authority’s discretion, remain in place on an interim basis under the provisions of this paragraph (c) and upon compliance with § 222.43 (notice and information requirements) of this part. Continuation of a quiet zone beyond the interim periods specified in this paragraph will require implementation of SSMS or ASMS in accordance with § 222.39 of this part and compliance with the requirements set forth in §§ 222.25(c), 222.27(d), and 222.35 of this part.

(2)(i) In order to provide time for the public authority to plan for and implement quiet zones that are in compliance with the requirements of this part, a public authority may continue locomotive horn restrictions at Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones for a period of five years from June 24, 2005, provided the public authority has, within three years of June 24, 2005, filed with the Associate Administrator a detailed plan for establishing a quiet zone under this part, including, in the case of a plan requiring approval under § 222.39(b) of this part, all of the required elements of filings under that paragraph together with a timetable for implementation of safety improvements.

(ii) If, during the three-year period after June 24, 2005, the Quiet Zone Risk Index for the Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone has fallen to a level at or below the Nationwide Significant Risk Threshold, the Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone may remain in effect, subject to § 222.51 of this part, provided the public authority provides notification of Pre-Rule Quiet Zone or Pre-Rule

Partial Quiet Zone establishment in accordance with § 222.43 and has complied with the requirements of §§ 222.25(c), 222.27(d), and 222.35 by June 24, 2008.

(3) Locomotive horn restrictions may continue for an additional three years beyond the five-year period permitted by paragraph (b)(2)(i) of this section, if:

(i) Prior to June 24, 2008, the appropriate State agency provides to the Associate Administrator: a comprehensive State-wide implementation plan and funding commitment for implementing improvements at Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones which, when implemented, would enable them to qualify for a quiet zone under this part; and

(ii) Prior to June 24, 2009, either physical improvements are initiated at a portion of the crossings within the quiet zone, or the appropriate State agency has participated in quiet zone improvements in one or more jurisdictions elsewhere within the State.

(4) In the event that the safety improvements planned for the quiet zone require approval of FRA under § 222.39(b) of this part, the public authority should apply for such approval prior to December 24, 2007, to ensure that FRA has ample time in which to review such application prior to the end of the extension period.

(d) *Pre-Rule Partial Quiet Zones that will be converted to 24-hour Quiet Zones.* A Pre-Rule Partial Quiet Zone may be converted to a 24-hour quiet zone if the quiet zone is brought into compliance with the New Quiet Zone requirements set forth in §§ 222.25, 222.27, 222.35 and 222.39 of this part and notification of the establishment of a New 24-hour Quiet Zone is provided in accordance with § 222.43 of this part.

**§ 222.42 How does this rule affect Intermediate Quiet Zones and Intermediate Partial Quiet Zones?**

(a) Existing restrictions may, at the public authority's discretion, remain in place within the Intermediate Quiet Zone or Intermediate Partial Quiet Zone until June 24, 2006, provided the public authority complies with § 222.43 (notice and information requirements) of this part. Continuation of the quiet zone beyond June 24, 2006 will require

implementation of SSMs or ASMs in accordance with § 222.39 of this part and compliance with the New Quiet Zone standards set forth in §§ 222.25, 222.27 and 222.35 of this part.

(b) *Conversion of Intermediate Partial Quiet Zones into 24-hour New Quiet Zones.* An Intermediate Partial Quiet Zone may be converted into a 24-hour New Quiet Zone when the quiet zone is brought into compliance with the New Quiet Zone requirements set forth in §§ 222.25, 222.27, 222.35 and 222.39 (requirements for quiet zone establishment) of this part, provided notification of New Quiet Zone establishment is provided in accordance with § 222.43 (notice and information requirements) of this part.

**§ 222.43 What notices and other information are required to create or continue a quiet zone?**

(a)(1) The public authority shall provide written notice, by certified mail, return receipt requested, of its intent to create a New Quiet Zone or New Partial Quiet Zone under § 222.39 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety.

(2) The public authority shall provide written notification, by certified mail, return receipt requested, to continue a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone under § 222.41 of this part or to continue an Intermediate Quiet Zone or Intermediate Partial Quiet Zone under § 222.42 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.